

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

USA TRUCK, INC.

Plaintiff

v.

SULLAIR, LLC; and BRIDGESTONE
AMERICAS TIRE OPERATIONS, LLC

Defendants

CIVIL ACTION FILE

NO.: 3:20-cv-00075-CDL

**USA TRUCK, INC.'S STATEMENT OF MATERIAL FACTS TO WHICH
IT CONTENDS THERE IS NO GENUINE DISPUTE TO BE TRIED**

Plaintiff USA TRUCK, INC., by and through the undersigned counsel, and pursuant to Local Rule 56, files this Statement of Material Facts as to Which it Contends There is No Genuine Dispute to be Tried, respectfully showing the Court as follows:

1.

Sullair designed the subject trailer (the “Sullair Trailer”), which weighed over 4,400 pounds, with “highway towable running gear” and intended the trailer to be towed on public highways at highway speeds without brakes.¹

2.

At the time of the accident, it is undisputed that the Sullair Trailer was being towed on Interstate 20 at highway speeds on a trip from South Carolina to Georgia.

¹ Ex. 2, Brian Tylish 30(b)(6) Depo. on October 3, 2019, 53:6-13; 113:13-22; 130:14-131:03; Ex. 8, Robert Carpenter Depo., 45:12-17; Ex. 1, Navendu Sharma 30(b)(6) Depo. on August 27, 2019, 64:8-11, 88:20-25; Ex. 6, Robert Alexander Depo., 34:3-7.

3.

The combined weight of the Blackwells' truck and the Sullair Trailer involved in the accident was greater than 10,000 pounds as it was being used in interstate commerce.²

4.

From a physics standpoint, the Sullair Trailer is no different than any other trailer.³

5.

In the wrongful death lawsuit in Troup County Superior Court stemming from the same accident, Sullair's counsel admitted that, at the time of the accident, the Sullair trailer would be considered a "commercial motor vehicle" under the "FMCSRs", which include 49 C.F.R. §§ 390.5 and 393.42.⁴

6.

Sullair's engineers concluded that brakes were necessary for the safe towing of Sullair's trailers.⁵

7.

The 1,000 pound weight difference between the Sullair Trailer and Sullair's "IT4" trailer would not affect the decision of whether brakes were necessary for safe towing.⁶

8.

It is undisputed that Sullair made trailer brakes a standard feature on its "IT4" trailer.⁷

² Ex. 4, Kevan Granat Depo. 151:16-152:6.

³ Ex. 4, Kevan Granat Depo. 129:15-22; 128:4-129:9.

⁴ Ex. 3, Summary Judgment Hearing Transcript, 104:16-20.

⁵ Ex. 6, Alexander Depo. 32:4-32:15; 37:18-38:2.

⁶ Ex. 5, Keough Depo. 143:7-13.

⁷ Ex. 8, Carpenter Depo. 70:17-71:8.

9.

Sullair is not aware of having ever studied or analyzed whether brakes were necessary for the safe towing of Sullair's trailers.⁸

10.

In the engineering world, it is generally understood that trailers should have trailer brakes if the trailer weighs over 3,000 pounds.⁹

11.

Sullair's trailer design expert, James Keough, has not seen any data or research that would suggest that a brakeless trailer over 3,000 pounds is safe to tow.¹⁰

12.

Sullair is not aware of any research or analysis by Sullair or anyone else to determine whether the Sullair Trailer, which weighed over 4,000 pounds, was safe to tow on public highways without brakes.¹¹

This 1st day of December, 2021.

MCMICKLE, KUREY & BRANCH, LLP

By: /s/ Scott W. McMickle
SCOTT W. MCMICKLE
Georgia Bar No. 497779
MICHAEL P. JOHNSON
Georgia Bar No. 395055
Attorneys for Plaintiff

⁸ Ex. 2, Tylish 30(b)(6) Depo. (10/3/2019): 74:16-20; 78:14-20; 188:1-8; 205:16-206:2.

⁹ Ex. 5, Keough Depo. 90:15-23.

¹⁰ Ex. 5, Keough Depo. 147:10-14.

¹¹ Ex. 7, Poczekay Depo. 111:15-112:2.

217 Roswell Street, Suite 200
Alpharetta, GA 30009
Telephone: (678) 824-7800
Facsimile: (678) 824-7801
swm@mkblawfirm.com
mjohnson@mkblawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed **USA TRUCK, INC.'S STATEMENT OF MATERIAL FACTS TO WHICH IT CONTENDS THERE IS NO GENUINE DISPUTE TO BE TRIED** via the Court's CM/ECF e-filing system to the following counsel of record:

Terry O. Brantley, Esq.
Alex McDonald, Esq.
terry.brantley@swiftcurrie.com
alex.mcdonald@swiftcurrie.com
SWIFT, CURRIE, MCGHEE & HIERS, LLP
1355 Peachtree Street, N.E., Suite 300
Atlanta, GA 30309
Attorney for Defendant
Sullair, LLC

Caroline Johnson Tanner, Esq.
Jonathan Spital, Esq.
caroline.tanner@hklaw.com
Jonathan.spital@hklaw.com
Holland & Knight LLP
One Regions Plaza, Suite 1800
1180 West Peachtree Street, NW
Atlanta, GA 30309-3407
Attorney for Defendant
Bridgestone Americas Tire Operations, LLC

This 1st day of December, 2021.

/s/ Scott W. McMickle
SCOTT W. MCMICKLE
For the Firm

217 Roswell Street, Suite 200
Alpharetta, GA 30009
Telephone: (678) 824-7800
Facsimile: (678) 824-7801
swm@mkblawfirm.com
mjohnson@mkblawfirm.com